IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

Bail Appl..No. 7664 of 2007

(CRIME NO. 222/07 OF KANNUR CITY POLICE STATION)
.....

PETITIONER:

SHAFEEQ.M.
S/O. MUHAMMED @ HUSSAIN KUNHI,
AGED 32 YEARS, KALATHIL HOUSE, KRUVA BRIDGE,
PADANNA WARD, KANNUR-3.

BY ADV. SRI.K.RAJESH SUKUMARAN.

RESPONDENTS:
----

1. **STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM.**
2. **KANNUR CITY POLICE STATION, REP. BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/12/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7664 of 2007

Dated this the 13th day of December, 2007

ORDER

Application for anticipatory bail. Petitioner faces allegations in a crime registered under Section 393 I.P.C. The crux of the allegation against the petitioner is that he attempted to snatch away the bag containing currency notes which the defacto complainant, a pygmy deposit collector of a bank, a woman, was carrying with her. The alleged incident took place on the evening of 10.11.07. Complaint was lodged on the next day before the police. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. False allegations have been raised against the petitioner because of political animosity, it is urged.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the materials show that there was an attempt to snatch away the bag containing

currency notes of the defacto complainant, a woman. She was able to identify the miscreant, who was known to her, when she lighted a torch. No independent eye witness has been traced so far. But there is nothing to doubt or suspect the version of the defacto complainant. In these circumstances, the petitioner may not, at any rate, be granted anticipatory bail. He may be directed to surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail, submits the learned Public Prosecutor.

4. A contention raised by the learned counsel for the petitioner is that political animosity is prompting the defacto complainant to make false allegations against the petitioner. In fact, I have gone through the petition. There is not even an assertion that the petitioner belongs to or he is an active worker of any political party. Admittedly the defacto complainant lady has no political leadings. Her husband is alleged to be a political worker. There is nothing to show that the husband of the defacto complainant or the petitioner is such an important political functionary as to justify the contention that a totally false and

vexatious allegation is being invented against the petitioner to vex and harass the petitioner. I am not satisfied that there are any circumstances in this case which can justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-